REMARKS

The Office Action, mailed November 20, 2006, considered claims 1–21. Claims 1–21 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Parthesarathy et al., U.S. Patent No. 6,353,926 B1 (filed Jul. 15, 1998) (hereinafter Parthesarathy), further in view of Eric Ustaris, U.S. Patent Pub. No. 2004/0060035 A1 (filed Sep. 24, 2002) (hereinafter Ustaris).[1]

By this response, no claims are amended such that claims 1–21 remain pending. Claims 1, 10, & 11 are independent claims which remain at issue.

As reflected in the claims, the present invention is directed generally toward collecting data for solving computer-related problems and providing computer support tools. Claim 1 recites, for instance, in combination with all the elements of the claim, providing a manifest which is chosen from a number of manifests based upon the detection of a computer-related problem, the manifest identifying a set of tools which collect data for the diagnosis of the computer-related problem; providing a control mechanism to interpret the manifest and execute the tools identified in the manifest to collect data from the machine; and receiving the data collected from the machine. Claim 10 recites a computer program product embodiment of a method substantially similar to that recited in claim 1. Claim 11 recites, in combination with all the elements of the claim, a system comprising a set of tools configured to collect from a machine data with respect to a computer-related problem; a reporting mechanism which provides access to the data collected; and a control mechanism which is operable on the machine to execute tools to collect data, the tools being selected and the data collected for a computer-related problem; and a reporting mechanism to allow analysis of the data collected.

The Examiner cited Parthesarathy and Ustaris for a rejection under 35 U.S.C. § 103(a) of each of the independent claims.[2] Parthesarathy is directed toward a method for a software vendor to notify a user of software updates.[3] Ustaris is directed toward the automated building, deploying, and installing of software resources.[4] The Applicant respectfully submits that the cited art, both separately and in combination, fails to teach or suggest each and every element of the claims of the present invention.

The Examiner cited Parthesarathy col. 6 l. 32–42 for teaching "providing a selected manifest chosen from . . . a plurality of manifests based upon a detected type of computer-related problem, the

---

[1] Although the prior art status of the cited art is not being challenged at this time, Applicant reserves the right to challenge the prior art status of the cited art at any appropriate time, should it arise.

[2] Office Communication p. 3 (Nov. 20, 2006).

[3] *See, generally*, Parthesarathy.

[4] *See, generally*, Ustaris.

selected manifest identifying a set of at least one tool that when executed collects data for analysis with respect to diagnosing the computer-related problem."[5] The cited portion of Parthesarathy reads

> "The following description will now more fully describe the individual steps of FIG. 3. As noted above, the invention uses Open Software Description (OSD) vocabulary. OSD specifies a vocabulary used for describing software packages and their dependencies for client computers which is a subset of the Extensible Markup Language (XML). Using the XML model, markup tags in the OSD vocabulary are represented as elements of a tree. The three basic relationships between the elements are 'parent of;' 'child of,' and 'sibling of.'"[6]

Applicant submits that the cited passage of Parthesarathy clearly fails to teach or suggest "providing a selected manifest," fails to teach or suggest the manifest "chosen from . . . a plurality of manifests," fails to teach or suggest "a plurality of manifests based upon a detected type of computer-related problem," fails to teach or suggest "the selected manifest identifying a set of at least one tool," and fails to teach or suggest the tool "when executed collects data for analysis with respect to diagnosing the computer-related problem."

The Examiner cited to Parthesarathy col. 5 1. 48–58 for teaching "providing a control mechanism to interpret the selected manifest, the control mechanism automatically executing each tool identified in the set to collect the data from a machine."[7] The cited portion of Parthesarathy reads

> "One embodiment of the invention will now be described with reference to FIG. 3. First, the software vendor sets up a software update channel, in step 100. As noted above, the software update channel provides a link between the software vendor's web page and at least one user's computer so as to allow the software vendor to send software updates to the users."[8]

Applicant respectfully submits that the cited passage of Parthesarathy fails to teach or suggest "providing a control mechanism to interpret [a] manifest." The passage fails to teach or suggest a "control mechanism automatically executing each tool identified in the set," and the cited passage fails to teach or suggest "executing each tool . . . to collect the data from a machine." (Note that Parthesarathy Fig. 3, referred to in the cited passage, also fails to teach or suggest the elements recited above.)

---

[5] Office Comm. p. 3.
[6] Parthesarathy col. 6 1. 32–42.
[7] Office Comm. p. 3.
[8] Parthesarathy col. 5 1. 61–67.

The Examiner cites Parthesarathy col. 6 l. 48–58 for teaching "receiving the data collected from the machine."[9] The cited portion of Parthesarathy reads

"The OSD vocabulary can be used in a stand-alone XML manifest file to declare the dependencies between different software components for different operating systems and languages. The OSD file provides instructions that can be used to locate and install only the required software components depending on the configuration of the target machine and what software is already present. The OSD formatted manifest file can also be embedded in an archive file, such as a Java Archive (.JAR) file, or a composite, compressed file such as a cabinet (.CAB) file, that contains the distribution unit to form a distribution unit file."[10]

Applicant respectfully submits that the cited passage fails to teach or suggest either "receiving . . . data" or the "data [having been] collected from the machine." (I.e., "depending on the configuration" does not imply that any data is collected from the machine. In Parthesarathy, the configuration of the target machine may be in an archive at the distribution point. Note also that locating and installing components does not imply that any data is collected from the machine – the components are located at the distribution point and then installed on a target machine.)

Finally, the Examiner concedes that Parthesarathy does not teach selecting a "manifest chosen from . . . a plurality of manifests based upon a detected type of computer-related problem," and cites Ustaris ¶¶ 20–21 & 37–38 for such teaching.[11] One sentence in Ustaris ¶¶ 20–21 recites "multiple build manifests can exist simultaneously."[12] However, the Applicant submits that the cited portion (not reproduced here due to length) of Ustaris, nor the entirety of Ustaris, teaches that a manifest is chosen based upon a detected type of computer-related problem. Instead, Ustaris only teaches embodiments in which the multiple *build* manifests are instruction sets for building software and for creating different software configurations. Ustaris does not teach the selection of a manifest "based upon a detected type of computer-related problem."

The Applicant respectfully submits that the above discussion makes clear that the cited prior art, both separately and in combination, fails to teach or suggest each and every element of the present invention as recited in claim 1. Accordingly, it would be improper to base a rejection of claim 1 under 35 U.S.C. § 103 on the cited art.[13] The other independent claims, claims 10 and 11, were rejected under 35 U.S.C. § 103 based upon a similar discussion using the same passages of the same prior art references.

---

[9] Office Comm. p. 3.
[10] Parthesarathy col. 6 l. 48–58.
[11] Office Comm. p. 3.
[12] Ustaris ¶ 21.
[13] MPEP § 2143.

Accordingly, the above discussion applies equally to claims 10 and 11 and the Applicant respectfully submits that those claims, too, cannot be properly rejected under 35 U.S.C. § 103. Correspondingly, the Applicant respectfully requests the rejection of the claims be withdrawn, inasmuch as a *prima facie* case of obviousness has not been established.[14] Accordingly, the Applicant submits that the claims, as recited, are in condition for allowance and respectfully requests the Examiner to allow the claims as recited.

In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney at 801-533-9800.

Dated this 2nd day of January, 2007.

Respectfully submitted,

RICK D. NYDEGGER
Registration No. 28,651
JENS C. JENKINS
Registration No. 44,803
Attorneys for Applicant
Customer No. 47973

RDN:JCJ:TMB:ahy
AHY0000002423V001

---

[14] In view of the foregoing, Applicant respectfully submits that the other rejections to the claims are now moot and do not, therefore, need to be addressed individually at this time. It will be appreciated, however, that this should not be construed as Applicants acquiescing to any of the purported teachings or assertions made in the last action regarding the cited art or the pending application, including any official notice. Instead, Applicant reserves the right to challenge any of the purported teachings or assertions made in the last action at any appropriate time in the future, should the need arise. Furthermore, to the extent that the Examiner has relied on any Official Notice, explicitly or implicitly, Applicant specifically requests that the Examiner provide references supporting the teachings officially noticed, as well as the required motivation or suggestion to combine the relied upon notice with the other art of record.